

OGC HAS REVIEWED.

9 December 1954

MEMORANDUM FOR: Deputy Director (Administration)

ATTENTION : [] 25X1A9A

SUBJECT : Payment for Transportation of Household Goods
and Personal Effects - [] 25X1A9A

REFERENCE : Your memorandum, same subject, dated 2 November
1954, and enclosures thereto

1. Your memorandum requested that this office review its opinion of 19 August 1954 on this same subject in the light of additional information made available since that date.

2. Our previous opinion dealt only with whether or not this Agency properly could reimburse [] for the cost of the transportation of certain of his household goods and personal effects (hereinafter termed "effects") from [] New Hampshire, to Washington, D.C., incident to his return to Washington from duty overseas. From the facts then made available, it seemed that the effects originally had been shipped to [] for storage there during [] overseas tour at Agency expense on the ground that, at the time of [] departure from Washington for his overseas station, "storage space was at a premium in Washington". We held, in effect, that such circumstances alone did not warrant the payment of the transportation involved under cognate travel regulations. In closing, we raised the question of the propriety of the payment of the transportation expenses of the effects from Washington to [] in the first place.

3. Now, however, it would appear that [] situation was more complex, both as regards its facts and, consequently, as regards the applicable regulations. A restatement of the circumstances, therefore, is in order.

[] was detailed to this Agency for duty from the United States Air Force in August 1951 and was assigned to the Far East Division. On 25 February 1952, he was ordered to [] on permanent change of station.

His orders did not authorize the concurrent travel of dependents as, at that time, there was no housing available for them in []. They did authorize

the shipment of an unspecified amount of his effects from Washington to [] although the basis for this authorization, other than "in accordance with Residence and Dependency Report", does not appear in the record. The effects were shipped and placed in storage in []. On or about 15 March 1952, [] departed for his station alone. In November 1952 his wife, [] apparently sailed from San Francisco for [] to join

her husband. In May 1954 the [] accompanied by [] mother, [] returned to the United States. [] travel orders

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in this instance, as amended, provided for the concurrent travel of his wife and mother-in-law and for the shipment of his effects. Since that time the following has taken place. On 8 July 1954, the effects shipped from [] arrived in Washington where they were put in commercial storage.

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25X1A9A United States and 13 July 1954, [] was returned to his parent service as, on this latter date, he was transferred to []

25X1A [] In August 1954, [] took his effects out of storage in [] and had them shipped to Washington for consolidation, as regards locale, with those of his effects which had come in from []. He did this at the suggestion of the Military Personnel Division, which suggestion apparently was made on the basis of the authority set out in subsection 4b(6) of section 8009 of the Joint Travel Regulations for the Uniformed Services. Both sets of effects have been in commercial storage in Washington since the respective dates of their arrivals. They have not been taken out because various echelons within the Agency have delayed the processing of the necessary papers pending the resolution, within the Agency, of the matter of whether the Agency or [] should pay the storage charges.

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4. Against this background the questions presented are whether this Agency properly may undertake to pay:

a. The charges for the transportation of the effects stored at [] to Washington, D.C.;

b. The charges for the storage of these effects in Washington; and

25X1A6A c. The charges for the storage of the effects shipped in from [] in Washington.

25X1A9A 5. An initial consideration is weight allowance. Whatever the liability of the Agency in the premises, and lacking an operational justification for a holding to the contrary, it cannot extend to effects in excess of the weight allowance authorized for persons in [] position. Weight allowance is the subject of section 8001 of the Joint Travel Regulations. The table in subsection 1 of that section authorizes 6,000 pounds (net weight) for enlisted personnel in the grade E-7 (master sergeants). The record reveals [] to have 7,578 pounds (net weight) of effects on storage in Washington, divided between 2,068 pounds, the [] shipment, and 5,510 pounds, shipped in from []. Subsection 3 of section 8100 of the Joint Travel Regulations provides that excess of authorized weight allowance will be deducted from the second shipment made in point of time. This being so, the Agency cannot be held to have any liability as regards 1,578 pounds of the [] shipment.

25X1 6. A second initial consideration is the basis of the authorization for the shipment of certain of the effects to []. At the time at which this shipment was made, section 8009-4b of the Joint Travel Regulations (effective 1 October 1951) provided, in relevant part, as follows:

"Ordered to . . . Duty Overseas"

"On transfer. . . to places. . . where the commanding officer has determined that housing for dependents is not available, shipment of household goods from the first duty station to such location in the United States as may be designated by the person concerned is authorized." (Emphasis supplied)

From the accompanying file, it would appear that housing for dependents
 25X1A6A was not available in [] at the time of [] assignment thereto 25X1A9A
 This determination had been made by the Chief, FE, who, for purposes of
 25X1A9A the quoted regulation, may be considered as having been [] "commanding
 officer". This being so, and matching the facts against the applicable regu-
 25X1A9A lation, we are of the opinion that, had [] been working with his parent
 25X1A6A service and had that service transferred him from Washington to [], he
 would have been entitled to have his effects shipped to []

25X1 7. We first consider the matter of the transportation of the effects
 from [] to Washington. Section 8009-4b(6) of the Joint Travel Regula-
 tions (effective 15 June 1954), entitled "Ordered from. . .Overseas Duty to
 an Unrestricted Station within the United States", in relevant part, pro-
 vides:

"When a member is ordered from. . .duty overseas to an unrestricted
 station within the United States, shipment is authorized. . .from
 . . .the designated. . .storage point to which household goods
 were shipped under the provisions of sub-par. . .(2) above to the
 new duty station."

So-called "sub-par. (2)" is section 8009-4b(2) of the Joint Travel Regula-
 tions (effective 15 June 1954) which, in relevant part, reads as follows:

"(2) Ordered to Duty Overseas When Dependents not Authorized to
Accompany the Member or Shipment of Household Goods Prohibited.
 When a member is ordered to an overseas station. . .and ship-
 ment of household goods to such overseas station is prohibited
 or when. . .it is anticipated that dependents will not be per-
 mitted to join him within 20 weeks, shipment is authorized to
 . . .such location within the United States as may be designated
 by the member concerned. . ."

Washington, D.C. may be considered "an unrestricted station" within the
 meaning of the first quoted regulation. Consequently, had [] been work- 25X1A9A
 ing with his parent service at the time of his transfer from [] to 25X1A6A
 Washington, this regulation would have authorized the shipment of those of his
 25X1 effects stored in [] to Washington.

25X1 8. The matters of the storage charges for the effects shipped from
 25X1A9A [] to Washington and those shipped from [] to Washington may be 25X1A6A
 considered together as, in [] situation, each is an instance of tempo-
 rary storage. Temporary storage is the subject of section 8006-1 of the
 Joint Travel Regulations (effective 15 December 1952). Subsection a thereof,
 in relevant part, provides:

"Whenever necessary in connection with a permanent change of station,
 because of conditions beyond control of the member (including but
 not limited to directed surrender of quarters, arrival of shipment
 at destination before arrival of member, or non-availability of
housing at destination) temporary storage of household goods within
 prescribed weight allowances is authorized at government expense
 . . .Government facilities of the service concerned will be used

for such storage in all cases when available and more advantageous to the Government. In case such government facilities are not available or, in the judgement of the shipping officer, such usage is not more advantageous to the Government, commercial facilities may be used. . . . Temporary storage under the provisions of this subparagraph, whether commercial or government facility, must accrue during any one or combination of the following periods:

. . .

3. After arrival of shipment at carrier's destination station and before delivery of shipment into quarters." (Emphasis supplied)

25X1A9A The primary requirement of this regulation is that the conditions indicating the desirability of the storage be "beyond the control" of [redacted]. Once this requirement is fulfilled, further limitations, so far as is relevant here, are placed on the entitlement in this particular case by the necessities of (a) commercial storage having been determined by appropriate authorities to be either more advantageous to the government or necessary due to a lack of government storage facilities, and (b) the period of storage having to be between the date of the arrival of the effects at their destination and that of their being moved into quarters.

25X1A9A 9. While [redacted] circumstances do not fall within any of the examples furnished under the beyond-the-control requirement, clearly they fall within the sense of the phrase. If his parent service will not pick up his effects in storage for shipment to [redacted] because they have not received the necessary clearance papers from this Agency and if this Agency is holding those papers pending the internal settlement of the matter of who is to pay for the storage, we would say that the circumstances of the storage 25X1A9A of [redacted] effects in Washington are beyond his control within the meaning of the regulation. Lacking evidence to the contrary, we assume that responsible persons with the Agency have determined that commercial storage was preferred over storage at a government facility as the point is conceded in the several memoranda in the supporting file. Finally, it is clear that none of the effects have been delivered to quarters. From the above, we conclude 25X1A9A that, had [redacted] been working for his parent service in these circumstances, he would have been entitled to government payment for the commercial storage charges of his effects in Washington.

10. It is the sense of various Agency regulations, among them [redacted] that military personnel detailed to the Agency:

". . . will continue to receive the rights and benefits to which they are entitled in their parent services."

For some years this and predecessor regulations have been construed to authorize the remission by the Agency of such monetary benefits to military personnel detailed to it in instances where they would have received these from their parent service under similar circumstances.

From this we conclude that, in the instance of [] this Agency may: 25X1A9A

- a. Pay for the transportation charges incident to the shipment of the effects stored in [] to Washington; and
- b. Pay for the storage charges of both the [] effects and the [] effects in Washington from the respective dates of their arrivals until 6 months thereafter in each case.

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25X1A9A The first and second of these are subject to the limitation, previously stated, that payment cannot extend to effects in excess of [] authorized weight allowance. We feel that the travel orders may be amended accordingly.

11. Your file is returned.

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[]
Office of General Counsel

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